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U.S. Department of Homeland Security
20 Mass, Rm. A3042, 425 I Street, N.W.
Washington, DC 20529



U.S. Citizenship
and Immigration
Services

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JAN 18 2005

FILE: SRC 01 106 54405 Office: TEXAS SERVICE CENTER Date:

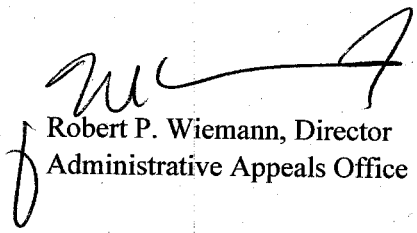
IN RE: Petitioner:
Beneficiary:

PETITION: Petition for a Nonimmigrant Worker Pursuant to Section 101(a)(15)(L) of the Immigration and Nationality Act, 8 U.S.C. § 1101(a)(15)(L)

IN BEHALF OF PETITIONER:

INSTRUCTIONS:

This is the decision of the Administrative Appeals Office in your case. All documents have been returned to the office that originally decided your case. Any further inquiry must be made to that office.


Robert P. Wiemann, Director
Administrative Appeals Office

DISCUSSION: The Director, Texas Service Center, denied the nonimmigrant visa petition. The matter was before the Administrative Appeals Office (AAO) on appeal. The appeal was denied on September 23, 2002. The petitioner filed a motion to reopen and to reconsider before the AAO. The motion was granted and the previous decision of the AAO was affirmed on November 17, 2003. The matter is now before the AAO as a second motion to reopen. The motion will be rejected as untimely filed.

In order to properly file a motion to reopen, the regulation at 8 C.F.R. § 103.5(a)(1)(i) provides that the affected party must file the complete appeal within 30 days of service of the unfavorable decision. If the decision was mailed, the appeal must be filed within 33 days. *See* 8 C.F.R. § 103.5a(b). In accordance with 8 C.F.R. § 103.2(a)(7)(i), an application received in a Citizenship and Immigration Services (CIS) office shall be stamped to show the time and date of actual receipt, if it is properly signed, executed, and accompanied by the correct fee. For calculating the date of filing, the motion shall be regarded as properly filed on the date that it is so stamped by the service center or district office.

The record indicates that the AAO issued the most recent decision on November 17, 2003. It is noted that the AAO properly gave notice to the petitioner that it had 33 days to file the motion. According to the date stamp on the Motion to Reopen, it was received by CIS on January 6, 2004, or 50 days after the decision was issued. Accordingly, the motion was untimely filed.

As the motion was untimely filed, the motion must be rejected.

ORDER: The appeal is rejected.